

## COVINGTON

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**BY ECF & ELECTRONIC MAIL**

The Honorable Edgardo Ramos  
United States District Judge  
United States Courthouse  
40 Foley Square  
New York, NY 10007  
ChambersNYSDRamos@nysd.uscourts.gov

Re: *United States v. Mark Scott*, S10 17 Cr. 630

Dear Judge Ramos:

We respectfully request that the Court consider this brief letter on behalf of Mark Scott in response to the Government's claim, raised in its sur-reply, that "a rational trier of fact could have easily found that U.S. victim funds did in fact pass through the Fenero Funds." *Sur-reply* at 3. The trial evidence established no such thing.

The Government points out in its sur-reply that "William Horn wired money directly and indirectly to a German IMS account ending in 6108." The Government then claims that some 33 million euros was transferred from this account to another IMS account in Singapore, citing to a summary chart, GX-2614. But the bank records supposedly supporting this chart (GX-820A-GX-820C, GX-819A-GX-819B, GX-812A-GX-812G) do not reflect this transfer at all.

The Government likewise repeats its claim that Linda Cohen (mistakenly identified in the Government's letter as "Linda Horn") transferred funds to a TD Bank which in turn transferred funds to accounts that ultimately were invested in the Fenero Funds. However, the Government fails to point out that Cohen's transfers to this account amounted to a tiny fraction of less than 1% of money paid into the TD Bank account, which appeared to be a payment processing account for a variety of merchants (no evidence of the account's ownership or purpose was offered at trial). The Government made no effort at trial – and has not still not, despite its sur-reply – to identify any principled way of tracing Cohen's deposit of \$22,000 dollars to the Fenero Funds.

Finally, the Government claims – for the first time – that in fact these same "TD Bank account records show numerous wires transmitted by U.S. victims to that account for OneCoin package purchases. (GX-730A; Tr. 84)." First, GX-730A consists of records from another bank, not TD Bank. Even putting this aside, the Government failed to present any evidence at trial whatsoever that any of other payments into the TD Bank account at issue were from OneCoin investors.

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In short, notwithstanding the misleading suggestions to the contrary in the sur-reply, the stubborn fact remains: the Government offered evidence of payments towards OneCoin for only two U.S. investors, and it failed to establish that any of these monies were directly or indirectly invested in the Fenero Funds.

Respectfully Submitted,

/s Arlo Devlin-Brown  
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